

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Petition of SBC Communications, Inc.)
for Forbearance from Regulation as a) CC Docket No. 98-227
Dominant Carrier for High Capacity)
Dedicated Transport Services in)
Fourteen Metropolitan Service Areas)

COMMENTS OF U S WEST COMMUNICATIONS, INC.

U S WEST Communications, Inc. ("U S WEST") hereby submits its comments in support of the Petition for Forbearance from Regulation as a Dominant Carrier for High Capacity Dedicated Transport Services in Fourteen Metropolitan Service Areas ("Petition") filed by SBC Communications, Inc. ("SBC") on December 7, 1998.¹

SBC's Petition provides further proof for the conclusion -- clearly established in U S WEST's own forbearance petitions for the Phoenix, Arizona and Seattle, Washington Metropolitan Statistical Areas ("MSAs") -- that the market for high-capacity services is intensely competitive. U S WEST has noted that the competitive situation in the Phoenix and Seattle MSAs is representative of the level of competitive entry that is occurring in metropolitan areas throughout the country.² Therefore, it is not at all surprising that SBC is able to show extensive

¹ Public Notice, Petition of SBC Communications, Inc. for Forbearance from Regulation as a Dominant Carrier for High Capacity Dedicated Transport Services, CC Docket No. 98-227, DA 98-2509, rel. Dec. 8, 1998.

² See Reply Comments of U S WEST Communications, Inc., CC Docket No. 96-262,

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competitive fiber networks and substantial competitor market share gains in fourteen MSAs. U S WEST plans to file subsequent forbearance petitions in additional MSAs where there is evidence of robust, facilities-based competition in the market for high-capacity services.

Consistent with U S WEST's approach, the SBC Petition is narrowly tailored so that it covers only special access and dedicated transport for switched access at DS1 and higher transmission levels. This market definition is based on established economic analysis. The noted economists Alfred E. Kahn and Timothy J. Tardiff, closely following the method employed by antitrust authorities, conclude that high-capacity services constitute a distinct product market.³ They observe that customers of lower-capacity facilities would likely not respond to changes in price by switching to high-capacity facilities.⁴ Thus, the definition of the relevant product market is dictated by customer perception.

According to Kahn and Tardiff, the market behavior of competitive access providers demonstrates that the relevant market product market is narrower than the all-local-exchange-services definition proffered by some opponents.⁵ They cite to numerous public statements made by AT&T and MCI WorldCom demonstrating their intent to target offerings to business customers as opposed to residential

filed Nov. 9, 1998 at 14-15.

³ Petition of U S WEST Communications, Inc. for Forbearance in the Seattle, Washington MSA, filed Dec. 30, 1998 at 14 and Attachment C.

⁴ Reply Comments of U S WEST Communications, Inc., CC Docket No. 98-157, Attachment A at 2 ("Kahn and Tardiff Reply").

⁵ Id.

customers.⁶ Kahn and Tardiff conclude that the incorrect broader market definition suggested by opposing parties “would have the effect of inhibiting U S WEST’s response to the strong competition of which AT&T itself boasts and which other providers are also offering While such restrictions would undoubtedly protect AT&T and the others, they would deprive customers of the attractive prices and services that U S WEST would be able to offer if it were accorded the greater flexibility of non-dominant status.”⁷ The situation is no different in the 14 MSAs covered by SBC’s Petition.

In addition, Kahn and Tardiff confirm that the proper basis for calculating market share in the market for high-capacity service is capacity, not revenue as suggested by some opponents. They note that “[i]n the present instance, involving sales to typically well-informed buyers, it seems unlikely that product differentiation would be determinative: modern telecommunications networks are distinguished most fundamentally by their physical ability to transmit information.”⁸ Kahn and Tardiff also point out that using current output (i.e., DS1 equivalents) to calculate market share and not including the total capacity of U S WEST’s competitors actually understates the competitive significance of other providers of high-capacity services.⁹

Those parties opposing forbearance -- primarily the large interexchange

⁶ Id. at 2-3 and nn. 2 and 3.

⁷ Id. at 3.

⁸ Id. at 5.

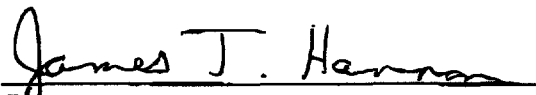
⁹ Id.

carriers that compete with U S WEST and SBC through their own affiliated competitive fiber operations -- have presented no evidence to counter the compelling competitive showing made by U S WEST. Indeed, they largely did not question the validity of U S WEST's market share and engineering data, only the meaning of it. The Commission should ignore the transparent attempts on the part of competitors to delay or sidetrack the granting of regulatory relief to serve their own business interests.

For these reasons, the Commission should exercise its forbearance authority and remove dominant carrier regulation from the market for high-capacity services in those MSAs where there is evidence of full-blown competition.

Respectfully submitted,

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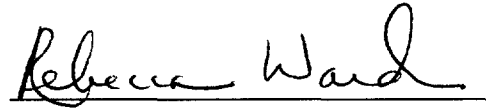
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Dan L. Poole

January 21, 1999

CERTIFICATE OF SERVICE

I, Rebecca Ward, do hereby certify that on this 21st day of January, 1999, I have caused a copy of the foregoing **COMMENTS OF U S WEST COMMUNICATIONS, INC.** to be served, via first class United States mail, postage prepaid, upon the persons listed on the attached service list.


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